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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

**BROOKSHIRE BROTHERS
HOLDING, INC., ET AL**

: **DOCKET NO. 04-1150**

VS.

: **JUDGE TRIMBLE**

**TOTAL CONTAINMENT, INC., ET
AL**

: **MAGISTRATE JUDGE WILSON**

JUDGMENT

Pursuant to the Memorandum Ruling of this date,

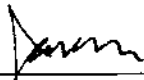
IT IS ORDERED, ADJUDGED AND DECREED that that the motion for summary judgment filed by Evanston Insurance Co. to dismiss Plaintiffs' claims as time-barred (doc. #469) is hereby **GRANTED** to the extent that all claims for injuries that occurred prior to August 15, 2002 have prescribed and are dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the motion for summary judgment filed by Evanston Insurance Co. to dismiss Plaintiffs' claim as barred by the economic loss rule (doc. #469) is hereby **GRANTED IN PART** to the extent that the claims for injuries that occurred in Texas are dismissed except for damages to other property including land contamination in Texas, and **DENIED IN PART** to the extent that injuries that occurred in Louisiana are governed by Louisiana law and the economic loss rule is not applicable.

The Court determines that there is no just reason for delay and directs entry of final judgment under rule 54(b) of the Federal Rules of Civil Procedure. The Court is of the opinion that the decision rendered in this matter as to the issue of prescription involves a controlling question of law as to which there is substantial ground for difference of opinion, and that an immediate appeal from

the order may materially advance the ultimate termination of the litigation. Hence, pursuant to Rule 1292 (b) of the Federal Rules of Civil Procedure the Court grants a certificate of appealability. The appealing party shall have ten days from the entry of this order to file a petition for permission to appeal to the United States Court of Appeals for the Fifth Circuit.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 11th day of October, 2006.



JAMES T. TRIMBLE, JR.
UNITED STATES DISTRICT JUDGE